



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

December 16, 2011

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Agency Director

Albert Lopez
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Valley Guns & Ammo
Attention: Steve Nobriga
1196 Silver Trail Lane
Manteca, CA 95336

Dear Applicant:

Enclosed is a copy of the resolution which was adopted by the West County Board of Zoning Adjustments at the public hearing held Wednesday, December 14, 2011 on your application for Variance and Conditional Use Permit, PLN-2011-00096.

The resolution is effective on the eleventh day following the action unless within that period there is an appeal filed with the Planning Department at the above address, or with the Clerk of the Board, Alameda County Board of Supervisors, Administration Building, 1221 Oak Street, Oakland, California, 94612. If you choose to appeal this action, your appeal should make reference to the application number and the date of the hearing as well as the reasons for the appeal. We will continue to bill staff costs against your deposit until the appeal is resolved. If anyone other than you, the applicant, or your representative wishes to appeal this action, there is an appeal fee of \$250.00. In this case we will not continue to bill you for staff costs.

If you have any questions concerning this matter, please free to contact this office.

Sincerely,

Phil Sawrey-Kubicek
Senior Planner

PSK: ybg

Enclosure:

**RESOLUTION NO. Z-11-70 OF
THE WEST COUNTY BOARD OF ZONING ADJUSTMENTS
ADOPTED AT THE HEARING OF DECEMBER 14, 2011, CONCERNING VARIANCE
and CONDITIONAL USE PERMIT, PLN-2011-00096**

WHEREAS VALLEY GUNS & AMMO and STEVE NOBRIGA have filed for VARIANCE and CONDITIONAL USE PERMIT PLN-2011-00096, to allow the operation of a gun shop, and at a distance of less than 500 feet from a residentially zoned district, where 500 feet is required, in a FA (Freeway Access) District according to the *Ashland and Cherryland Business District Specific Plan*, allowing large scale, general commercial land uses that benefit from freeway access and exposure, located at 488 Lewelling Boulevard, south side, approximately 140 feet west of Hesperian Boulevard, in the unincorporated Ashland area of Alameda County, designated County Assessor's Parcel Number: 413-0097-001-03; and

WHEREAS the Board did hold a public hearing on said application at the hour of 1:30 p.m. on the 16th day of November and the 14th day of December, 2011, in the Alameda County Building, 224 West Winton Avenue, Public Hearing Room, Hayward, California; and

WHEREAS it satisfactorily appears from affidavits on file that proper notice of said public hearing was given in all respects as required by law; and

WHEREAS this application has been reviewed in accordance with the provisions of the California Environmental Quality Act and has been found to be categorically exempt; Article 19, Section 15303, Class 3, New Construction or Conversion of Small Structures. Consisting of construction and location of limited numbers of new, small facilities or structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure; and

WHEREAS a Pre-Hearing Analysis was submitted recommending the application be denied; and

WHEREAS the Applicant and a Representative appeared at said public hearings and presented testimony in support of the application; and

WHEREAS Neighbors appeared at said public hearings and offered testimony in opposition to the application; and

WHEREAS Neighbors appeared at said public hearings and offered testimony in support of the application; and

WHEREAS the Board did hear and consider all said reports, recommendations and testimony as hereinabove set forth;

NOW THEREFORE

BE IT RESOLVED that the Board finds that:

RESOLUTION NO. Z-11-70
DECEMBER 14, 2011
PAGE 2

VARIANCE

- (a) There are special circumstances applicable which deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification. Highway 880, multi-lane thoroughfare Hesperian Boulevard, and walls and fences create a physical obstruction that does not allow direct traversable access at a distance less than 500 feet from the site to a residentially zoned district.
- (b) The granting of the application will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone as the proximity of the placement of Highway 880 located southwest of the property, Hesperian Boulevard thoroughfare, and walls and fences create a physical obstruction not allowing direct traversable access at a distance less than 500 feet from the site to a residentially zoned district. This situation is unique.
- (c) The use will not be detrimental to persons or property in the neighborhood or to the public welfare with the Conditions of Approval undertaken as contained herein.

CONDITIONAL USE PERMIT

- (a) The use is required by the public need as there is a need to provide the opportunity to the public to purchase firearm sales in a qualified licensed establishment. Unincorporated Alameda County currently has four (4) licensed firearms sales business. The necessary number of firearms sales establishments to serve the public need is left up to the market.
- (b) The use will be properly related to other land uses and transportation and service facilities in the vicinity. The district in which the proposed sales activity is to occur is appropriate as the firearms sales shop is located in a mixed use retail/commercial area on a major thoroughfare where the surrounding public streets, and freeway access are adequate and all necessary improvements and services are available. The *Eden Area General Plan* calls for "Mixed uses" in the "General Commercial" designation, which is where this site is located. However, the General Plan goal to promote a "variety of uses" did not consider "gun store/firearms sales" as part of that desirable mix of uses.

RESOLUTION NO. Z-11-70

DECEMBER 14, 2011

PAGE 3

- (c) The use, if permitted, under all the circumstances and conditions of this particular case, will not materially affect adversely the health or safety of persons residing or working in the vicinity, or be materially detrimental to the public welfare or injuries to property or improvements in the neighborhood as the applicant possesses, in current form, all of the firearms dealer licenses required by federal and state law. The applicant has the required licenses and is knowledgeable about the firearms business operation having 38 years of prior firearms shop business ownership and experience. Firearms shall be properly licensed, inspected, and security installed and shall meet all applicable life-safety, and fire code requirements, with proper inventory security devices, and no adverse effects are otherwise anticipated.
- (d) The use will not be contrary to the specific intent clauses or performance standards established for the District in which it is to be considered. Although the Zoning Ordinance requires a Conditional Use Permit for firearms sales, and does not allow firearms sale within 500 feet of a residentially zoned district; elementary, middle or high school; pre-school or day care center; other firearms sales business; or liquor stores or establishments in which liquor is served; and the site proposed with this application is approximately 446 feet from a residentially zoned district. A Variance was submitted as part of this application, and has been approved.

ADDITIONAL CONDITIONAL USE PERMIT FINDINGS:

- (a) The district in which the proposed sales activity is to occur is appropriate as the *Eden Area General Plan* calls for "mixed uses" in the "General Commercial" designation, which is where this site is located. A gun store is an appropriate use in the district and will promote the goal to have a "variety of uses".
- (b) The subject premises is within five hundred (500) feet of a residentially zoned district. However, Highway 880, multi-lane thoroughfare Hesperian Boulevard, and walls and fences create a physical obstruction that does not allow direct traversable access at a distance less than 500 feet from the site to a residentially zoned district. A variance has been approved for the reduced 500 foot distance.
- (c) The applicant will possess all of the firearms dealer licenses required by federal and state law. The applicant is knowledgeable about the firearms business operation having 38 years of prior firearms shop business ownership and experience.

RESOLUTION NO. Z-11-70

DECEMBER 14, 2011

PAGE 4

- (d) The applicant has been informed that, in addition to a conditional use permit, the applicant is required to obtain a firearms dealer license issued by the County of Alameda before sale activity can commence, and that information regarding how such license may be obtained has been provided to the applicant. Staff has discussed the licensing requirements with the applicant in meetings and he is aware of the licensing requirements.
- (e) The subject premises will be in full compliance with the requirements of the applicable building codes, fire codes and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure. The premises is required to undergo alterations to bring it into full compliance with codes, regulations, occupancy, maintenance, construction, and safety design for the gun shop use.
- (f) The applicant will provide sufficient detail regarding the intended compliance with the Penal Code requirements for safe storage of firearms and ammunition to be kept at the subject place of business and building security. The applicant has had prior experience with the Code requirements to operate firearms and ammunition sales type of business, and as shown the firearms will be kept safe and secure.

NOW THEREFORE

BE IT FURTHER RESOLVED that the Board does hereby approve the said application as shown by materials labeled Exhibit "A" on file with the Alameda County Planning Department subject to the following conditions:

1. This use permit is for the issuance of Conditional Use Permit, PLN-2011-00096 to Valley Guns & Ammo to allow the operation of a gun shop, located at 488 Lewelling Boulevard, south side, approximately 140 feet west of Hesperian Boulevard, in the unincorporated Ashland area of Alameda County, designated County Assessor's Parcel Number: 413-0097-001-03.
2. The subject premises shall be in full compliance with the requirements of the applicable building codes, fire codes and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure. The use shall comply at all times with the requirements of the following agencies and County Departments:
 - a) Alameda County Fire Department
 - b) Alameda County Public Works Agency, Building Inspection Department
 - c) Alameda County Environmental Health Department
 - d) Alameda County Sheriff's Department

RESOLUTION NO. Z-11-70

DECEMBER 14, 2011

PAGE 5

3. A Security Plan shall be submitted for approval to the Planning Director and the Sheriff's Office prior to the issuance of a Certificate of Occupancy. The installation of the plan shall include an alarm system, lighting, security gates, doors and windows.
4. A site plan with elevations shall be submitted for approval to the Planning Director which includes exterior improvements. The exterior improvements shall include paint, signage, lighting, and landscaping.
5. The subject place of business and building security shall at all times be in compliance with Penal Code requirements for safe storage of firearms and ammunition. Two, 14 foot security gate shall secure rifles and handguns.
6. The entire premises must remain trash/debris and graffiti free at all times.
7. The Hours of Operation shall be from 10:00 a.m. to 5:00 p.m. Tuesday through Saturday. Closed on Sunday and Monday.
8. The business shall remain under the ownership and control of the applicants. The Alameda County Planning Director shall be notified within ten working days of any transfer and/or sale of the business. Notification shall include the effective date of the change, and the name and phone number of the new owner.
9. A mandatory review shall be conducted one year and five years from approval of Conditional Use Permit, PLN-2011-00096. One, and five years after the date of this approval, at the option of the County, considering any information that has been received, following notice as required for the original permit, this Conditional Use Permit, PLN-2011-00096 may be set for public hearing as was provided for the original permit. At said public hearing the mandatory one year and five year review will evaluate if conditions of approval may be added or deleted, or conditions may be modified so as to enable the continued making of the affirmative findings above. Any conditions of approval modified or added shall have the same force and effect as if originally imposed. Review costs shall be borne by the applicant.

Pursuant to Section 17-52.070 of the Alameda County Zoning Ordinance said Variance shall be implemented with a term of three (3) years of its issuance or it shall be of no force or effect. Said Variance shall remain revocable for cause in accordance with Section 17-54.030 of the Alameda County Zoning Ordinance.

RESOLUTION NO. Z-11-70
DECEMBER 14, 2011
PAGE 6

Pursuant to Section 17-52.050 of the Alameda County Zoning Ordinance said Conditional Use Permit shall be implemented within a term of three (3) years of its issuance or it shall be of no force or effect. If implemented, said Conditional Use Permit shall remain revocable for cause in accordance with Section 17-54.030 of the Alameda County Zoning Ordinance.

WEST COUNTY BOARD OF ZONING ADJUSTMENTS
ALAMEDA COUNTY PLANNING DEPARTMENT